

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DATHAN JACKSON,)	
)	
Plaintiff,)	
)	
v.)	No. 4:18-CV-1243 RLW
)	
GENERAL MOTORS LLC,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This matter is before the Court on Defendant General Motors LLC’s Motion to Strike Inadmissible Exhibits and Denials From Plaintiff’s Opposition to Defendant’s Motion for Summary Judgment. (ECF No. 124.) The motion will be denied.

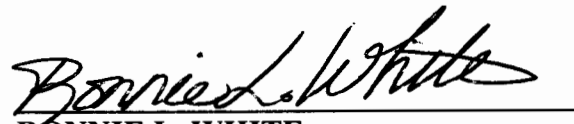
Under Rule 12(f), a court may “strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Rule 12(f), Fed. R. Civ. P. “Only material included in a ‘pleading’ may be the subject of a motion to strike, and courts have been unwilling to construe the term broadly.” 2 James W. Moore, et al., Moore’s Federal Practice § 12.37[2] (3rd ed. 2018). Rule 7(a), Fed. R. Civ. P. sets forth which documents constitute a “pleading.” “Motions, briefs or memoranda, objections, or affidavits may not be attacked by the motion to strike.” 2 Moore’s Federal Practice § 12.37[2]. Defendant’s motion to strike does not seek to strike material from a pleading and therefore will be denied..

“[W]hen ruling on a motion for summary judgment, ‘a Court should ignore inadmissible evidence instead of striking it from the record.’” Berry v. Frank’s Auto Body Carstar, Inc., 817 F.Supp.2d 1037, 1041B42 (S.D. Ohio 2011); see Khamis v. Bd. of Regents, Se. Mo. State Univ., 2010 WL 1936228, at *1 (E.D. Mo. May 13, 2010) (affidavit attached to memorandum in opposition was not properly attacked by motion to strike; portions of affidavit without personal

knowledge would not be considered by court); Cowden v. BNSF Ry. Co., 2013 WL 5442952, at *2 (E.D. Mo. Sept. 30, 2013) (refusing to strike declarations submitted in connection with a summary judgment motion; Court instead would examine the parties' arguments to determine whether it should consider the declarations in ruling on the pending motions). In this case, the Court will examine the parties' arguments and ignore any inadmissible evidence.

Accordingly,

IT IS HEREBY ORDERED that Defendant General Motors LLC's Motion to Strike Inadmissible Exhibits and Denials From Plaintiff's Opposition to Defendant's Motion for Summary Judgment is **DENIED**. (ECF No. 124)


RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE

Dated this 4th day of May, 2020.